

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q67282

Gerard AUVRAY, et al.

Appln. No.: 10/000,362

Group Art Unit: 2618

Appeal No. 2009-3777

Confirmation No.: 9785

Examiner: Sujatha R. SHARMA

Filed: December 4, 2001

For: A SYSTEM FOR PROVIDING A MOBILE TELEPHONE SERVICE ON BOARD A
VEHICLE

**REQUEST FOR CORRECTION OF BOARD OF PATENT APPEAL AND
INTERFERENCES DOCKETING NOTICE**

Board of Patent Appeals and Interferences

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

Appellants respectfully correct the Docketing Notice dated February 2, 2009, be
corrected to include the Reply Brief filed on October 2, 2008. A copy of the following is
attached:

- Docketing Notice dated February 2, 2009
- USPTO Reply Brief Noted Communication dated November 14, 2008.
- EFS Receipt with Reply Brief filed October 20, 2008

Respectfully submitted,

/DJCushing/

David J. Cushing

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: February 10, 2009



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/000,362 12/04/2001 Gerard Auvray Q67282 9785

23373 7590 02/02/2009
SUGHRUE MION, PLLC
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SUITE 800
WASHINGTON, DC 20037

DOCKETE

FEB 04 2009

EXAMINER

SHARMA, SUJATHA R

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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02/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



United States Patent and Trademark Office

**Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office**

**P.O. Box 1450
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WASHINGTON, DC 20037

Appeal No: 2009-3777
Application: 10/000,362
Appellant: Gerard Auvray et al.

**Board of Patent Appeals and Interferences
Docketing Notice**

Application 10/000,362 was received from the Technology Center at the Board on December 12, 2008 and has been assigned Appeal No: 2009-3777.

A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on: June 09, 2008
Reply Brief filed on: NONE
Request for Hearing filed on: NONE

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

**BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450**

The facsimile number of the Board is 571-273-0052. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 571-272-9797 and should be directed to a Program and Resource Administrator.

By order of the Board of Patent Appeals and Interferences



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/000,362

12/04/2001

Gerard Auvray

Q67282

9785

23373 7590 11/14/2008
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DOCKETED

NOV 20 2008

EXAMINER

SHARMA, SUJATHA R

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

REPLY BRIEF NOTED

The reply brief filed 10/20/08 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUJATHA SHARMA whose telephone number is (571)272-7886. The examiner can normally be reached on Mon-Fri 7.30am - 4.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sujatha Sharma/
Primary Examiner, Art Unit 2618
Sujatha Sharma
November 10, 2008

Application/Control Number: 10/000,362

Page 3

Art Unit: 2618

Electronic Acknowledgement Receipt

EFS ID:	4145786
Application Number:	10000362
International Application Number:	
Confirmation Number:	9785
Title of Invention:	System for providing a mobile telephone service on board a vehicle
First Named Inventor/Applicant Name:	Gerard Auvray
Customer Number:	23373
Filer:	David J. Cushing
Filer Authorized By:	
Attorney Docket Number:	Q67282
Receipt Date:	20-OCT-2008
Filing Date:	04-DEC-2001
Time Stamp:	23:03:07
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no				
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Reply Brief Filed	Q67282ReplyBrief.pdf	79664 8d6cbe72a2d7d8221f109ae731da9c855da335cb	no	12
Warnings:					
Information:					

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

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VEHICLE

REPLY BRIEF

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Responsive to the Examiner's Answer mailed August 20, 2008, please consider the
following:

Reply Brief
USSN 10/000,362

I. REAL PARTY IN INTEREST

The real party in interest is Alcatel Lucent

Reply Brief
USSN 10/000,362

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

Reply Brief
USSN 10/000,362

III. STATUS OF CLAIMS

Claims 1-14 are pending.

Claims 1-3, 5-7 and 9-14 are rejected under 35 USC 102(a) as anticipated by Lidbetter (EP 1079547).

Claims 4 and 8 are rejected under 35 USC 103(a) as unpatentable over Lidbetter in view of Horrер (USP 6,321,084).

All of claims 1-14 are appealed.

Reply Brief
USSN 10/000,362

IV. STATUS OF AMENDMENTS

There were no amendments filed subsequent to the final Office action mailed May 3,
2007.

Reply Brief
USSN 10/000,362

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

See the Summary of Claimed Subject Matter section in the response filed June 9, 2008.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are:

1. Whether claims 1-3, 5-7 and 9-14 are anticipated by Lidbetter.
2. Whether claims 4 and 8 are unpatentable over Lidbetter in view of Horrер.

VII. ARGUMENT

With respect to the anticipation rejection of claims 1 and 5, it was pointed out in Appellant's brief that claims 1 and 5 call for the transport connection to be set up before a call is requested and then used immediately for a call as soon as the call is requested. Thus, according to claims 1 and 5, a transport connection is something that can be used as soon as a request to set up a call is received. According to the present invention, the claimed transport connection is the connection E2 in Fig. 3. This is the same as the connection 3 in Fig. 2, except that it is set up ahead of time and it is not activated yet. So it is ready to use, except for activation which is immediate.

It was then further explained that Lidbetter does not teach the setting up of a connection that is ready for immediate use as soon as a request to set up a call is received. In Lidbetter, further setting up of the transport connection is required.

In the Examiner's Answer, beginning at the top of page 8, the examiner responds to this argument by pointing to lines 41-44 of column 4 of Lidbetter where it is noted that the satellite connection includes a signaling channel, and that a signaling channel is used to set up a call connection. It is submitted that this argument and citation by the examiner actually confirms the distinction pointed out by appellant, rather than refutes it. The satellite connection in Lidbetter does indeed include a signaling channel. And when a call is requested, this signaling channel is used to set up the call over the satellite connection. This simply confirms that the satellite connection in Lidbetter is not a transport connection as that term is used in the present application, and is not ready for immediate use as soon as a call request is received.

The examiner on the one hand argues that a signaling channel is used to set up a call connection, then argues that when a call request is received the signaling channel has already been set up and is ready for use. But using the signaling channel to set up a call connection means that the call connection has not already been set up. According to the present invention, the call connection is already established and is simply ready for use.

The examiner then argues that the term "transport channel" in the present claims is given a broad interpretation to mean simply that a *control channel* is set up *between the mobile station and a base station*, which facilitates the communication between the mobile station and the base station when the mobile user wishes to make a call. But that is not what is claimed. Claims 1 and 5 refer to a transport connection between the vehicle (e.g., an aircraft) and a public land mobile network, not a control channel between a mobile station (onboard the vehicle) and the base station (also on board the vehicle). Claims 1 and 5 further describe that this transport connection is ready for use as soon as a call request is received. Lidbetter teaches the establishment of a satellite connection between the ship and a shore base station, the satellite connection being capable of handling plural calls, and (at least according to the examiner) the satellite connection further including a signaling channel that can be used on receipt of a call request to set up a transport connection over the satellite connection. There is no transport connection ready for use as soon as a call request is received.

Evidence of the need in Lidbetter for further setup procedures when a call request is received is that fact that the Lidbetter satellite connection is a connection suitable for handling multiple calls. This of necessity means that when a call is requested it will be necessary to select

a channel from amongst the plural channels available in the satellite connection. To be sure, there is already a satellite "tracking" link already set up, but this is not a transport connection that can be used for a call, but is instead a multiple-call-capacity link over which a transport connection can be set up.

In the paragraph bridging pages 8-9 of the Examiner's Answer, the examiner states that appellant is arguing that the present invention can eliminate "the request." The examiner is misconstruing Appellant's argument. The "request" eliminated according to the present invention is the request (2) for setting up a connection between Equipment Unit A and Equipment Unit B, i.e., between the unit A onboard the vehicle and the unit B which is part of the terrestrial network. This is not the request from the user to set up a call. And while this request is eliminated according to the present invention, there is no indication that it is eliminated in Lidbetter. In Lidbetter, it will be necessary to request the use of one of the plural channels available in the satellite connection.

At page 9 of the Examiner's Answer and with reference to claims 9-12, the examiner argues that the satellite connection of Lidbetter can be used without further selection process when a call setup request is received. But the satellite connection in Lidbetter is clearly described as having the capacity to handle multiple calls. The examiner has not explained, nor does Lidbetter explain, how a link capable of handling multiple calls can be used to handle a single call without some sort of selection process where one of the plural channels available in the satellite link is selected for use in this call.

At the top of page 10 of the Answer, the examiner explains that when a cellular telephone is turned on, a signaling channel is set up between the cellular telephone and the base station, and when the user of the cellular telephone wishes to make a call and starts the dialing process, the signaling channel “will start the call setup process, i.e., assigning the right traffic channel and/or resources needed for the call.” Again, the examiner has missed the point. The signaling channel between the mobile telephone and the base station on board the vehicle is not what the present invention is about. It is the transport connection between the base station onboard the vehicle and the base station on the land network that the present invention is concerned with. The fact that in Lidbetter a signaling channel is set up between the mobile terminal and the base station onboard the ship, and that this signaling channel *may* be in a standby state, is not relevant to the issue of whether the link between the ship and shore is also in a standby state. And further, to the extent the examiner is seeking to draw some sort of analogy, the requirement that the signaling channel be used “to assign the right traffic channel” is exactly what the examiner earlier argues does not happen in Lidbetter, i.e., further selection process after a call request is received.

In Section D beginning at page 10, the examiner explains that there are resources that are used when a call setup request is received, and from this the examiner makes the leap to the position that no resources are used when no call request has been received and the “connection” is in a standby state. This is a non-sequitur. Simply because there are things that must be done when a call setup request is received, it does not follow that substantially no resources are consumed in the standby state.

Reply Brief
USSN 10/000,362

In Section E beginning at page 11 of the Answer, with reference to claims 3 and 7, the examiner describes that in Lidbetter the satellite link is deactivated when there is interference to with the satellite link by the ground base station, and is then reactivated when the interference goes away. This is clearly *not* automatic reactivation in accordance with a time delay as is required in claims 3 and 7. It is reactivation when the interference signal is gone.

Finally, it is noted that claims 10 and 12 recite the transport connection for a single call, which is directly contrary to the teaching of Lidbetter in which the satellite connection is clearly described as being able to handle multiple calls. Thus, the satellite connection cannot itself correspond to the transport connection as defined in claims 10 and 12.

For the reasons given above and in the earlier filed Appeal Brief, reversal of the examiner is respectfully requested.

Respectfully submitted,

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Date: October 20, 2008

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